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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Lauermann
 Serial No. 10/651,584 : Group Art Unit: 1614
 Filed: August 30, 2003 : Examiner: Joseph S. Kudla
 For: TARGETED RELEASE

AMENDMENT AND RESPONSE

Honorable Commissioner for Patents
 Washington, D.C. 20231



Sir/Madam:

In response to the Office Action dated 01/15/08, Applicant submits the following remarks within the statutory one (1) month period. No extension time is requested. No new matter has been added.

REMARKS

Election/Restriction

The examiner requested restriction under 35 USC 121 on the grounds that the inventions I (Claims 1-17), II (Claims 18-19) III (Claims 20-23) of the instant application are distinct from each other.

a. The examiner states that in the instant case, the process as claimed can be practiced with a materially different product, such as partial agonist. The applicant respectfully disagrees. A partial agonist would not be "deactivatable by a reagent produced by a target cell". A partial agonist when administered alone or together with an active agent would not act such that the activity of the active agent would be reduced until it reaches a target cell producing a reagent wherein the active agent (partial agonist) would be cleaved by said reagent and activity of said active agent would be restored as claimed. The process as claimed cannot be practiced with a materially different product.

b. The examiner states that in the instant case, the process as claimed can be practiced with a materially different product to treat cancer, such as radiation therapy. The applicant respectfully disagrees. Radiation therapy is not specific and treats or kills any cell regardless of its nature, location or origin. Radiation therapy is not deactivatable by a reagent produced by a target cell. Radiation therapy would not treat a cancer cell comprising contacting the cell with an inhibitor which is deactivatable by a reagent produced by a target cell such that the activity of the active agent (radiation) is reduced until it reaches a target cell producing a reagent wherein the inhibitor is cleaved by said reagent and activity of said active agent is restored as claimed. The process as claimed cannot be practiced with a materially different product.

Applicant is making an election restriction for examination purposes of the invention with traverse. The elected claims are 1-17.

Election of Species

Applicant is making an election of species for examination purposes of the invention with traverse.

First Moiety

Claim 2. A protein is elected. The species in the claim have common denominator, a moiety that binds, inhibits, suppresses, neutralizes, or decreases activity of a biologically active agent.